IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.3680 of 2007
Date of decision : 23.11.2007

Prem Kumar

… Petitioner

Versus

State of Haryana

…Respondents

Present : Mr.Mukesh Verma, Advocate for the petitioners.

Vinod K.Sharma, J. (Oral)

This revision petition has been filed against the order passed by the learned District Judge, Gurgaon, vide which application moved by the applicant-petitioner claiming costs of the appeal case No.44 of 9.3.2005 and also the costs and compensation for the arbitration case, has been ordered to be dismissed.

The learned District Judge, Gurgaon has been pleased to observe that in the appeal, no costs were awarded to the applicant-petitioner and therefore there was no occasion to the applicant-petitioner to move the application for claiming costs which was accordingly dismissed. Though the District Judge, Gurgaon has been pleased to observe that the petitioner has also filed a review seeking the payment of costs. The learned counsel for the petitioner states that in fact, no review was filed.

The applicant has got no right to claim compensation and costs by moving an application before the executing Court.

Learned counsel for the petitioner contends that under Section 38 (3) of the Arbitration and Conciliation Act, the application moved by the applicant -petitioner was competent. This contention is totally misconceived. Under section 38 (3) of the Arbitration and Conciliation Act, Arbitrator is empowered to award the costs. In case the Arbitrator fails to do so the power

is give to Court to award cost. However, in the present case, no costs were awarded by the Court while disposing of an appeal against the award passed by the Arbitrator.

The learned court below has rightly dismissed the application moved by petitioner. There is no error or irregularity in the order passed by the learned District Judge which may call for interferences by this Court in exercise of revisional jurisdiction.

No merit.

Dismissed.

[Vinod K.Sharma]
Judge

23.11.2007

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